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IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)
WEDNESDAY, THE SIXTEENTH DAY OF JUNE
TWO THOUSAND AND FOUR
PRESENT
THE HON'BLE MR JUSTICE N.V. RAMANA
WRIT PETITION NO : 9566 of 2004

Between:

Mohd. Habeeb Ur Rahman, S/o. Mohd Abdul Rahman,
aged about 40 years, R/o. 17-1-319/A/17, Owaisi Colony, Edi
Bazaar, Hyderabad.

..... PETITIONER

AND

- 1 District Collector, Hyderabad District.
- 2 Mandal Revenue Officer, Bandlaguda Mandal, Hyderabad District.
- 3 Municipal Corporation of Hyderabad, rep by its Commissioner,
Hyderabad.
- 4 Assistant City Planner, Circle 1, Charminar, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to to issue a Writ of Mandamus or any other appropriate writ declaring that the order of the 1st respondent contained in Memo No. B3/1111/2004 dated 01-04-2004 is arbitrary and illegal and direct the respondents 3 and 4 to consider the building application of the petitioner for construction permission in respect of premises No. 17-1-305/1/A/2/1, Edi Bazaar, Hyderabad without insisting on production of No Objection Certificate from the 1st respondent in accordance with the building bye-laws under Hyderabad Municipal Corporation Act, 1955 and grant such other relief as it deems fit in the circumstances of the case

Counsel for the Petitioner:MR.V.VENKATARAMANA

**Counsel for the Respondent No.3: GP FOR MUNICIPAL ADMN. &
URBAN DEV.**

The Court Made the Following :

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This writ petition is filed to declare the order of the 1st respondent in Memo No. B3/1111/2004 dated 1.4.2004 as arbitrary and illegal and consequently to direct respondents 3 and 4 to consider the building application of the petitioner for construction permission in respect of premises No.17-1-305/1/A/21, Edi Bazaar, Hyderabad without insisting for production of 'No Objection Certificate' from the 1st respondent in accordance with the building bye-laws under the Hyderabad Municipal Corporation Act, 1955.

Heard the learned counsel for the petitioner, the learned Government Pleader for Municipal Administration and the learned standing counsel for the Municipal Corporation of Hyderabad and at their request the matter is taken up for final disposal at the admission stage itself. Issue Rule nisi.

The case of the petitioner is that he is the absolute owner of the house property bearing No.17-1-305/1/A/2/a, admeasuring 400 square yards situate at Edi Bazar having purchased the same under a registered sale deed dated 19.4.2000. Since the said house was an old one, he approached the 3rd respondent for obtaining a building construction permission and as per their instructions, he has also applied to the 1st respondent for issuance of 'No Objection Certificate'. By the impugned orders dated 1.4.2004, the request of the petitioner was negatived by the 1st respondent on the ground that the property of

the petitioner was classified as 'G.Dargah Shareef' and therefore the request of the petitioner cannot be acceded to. Hence this writ petition.

It is contended by the learned counsel for the petitioner that the petitioner has purchased an existing old house through registered sale deed and therefore there is no reason to reject the request of the petitioner for granting 'No Objection Certificate' by the 1st respondent. It is also contended by the learned counsel for the petitioner that as per the judgment of this Court in **Hyderabad Potteries Vs.District Collector**^[1], the Municipal Corporation is not having any right or authority to insist for production of 'No Objection Certificate'.

Sri Ganta Rama Rao, the learned standing counsel for the respondent Corporation submits that as per the judgment in Hyderabad Potteries's case (1 supra), the petitioner has to produce the entries in the TSLR for the purpose of issuing a building permission and if the petitioner produces such material, the Municipal Corporation has no objection for considering the application of the petitioner for sanction of building permission for which the learned counsel for the petitioner has readily agreed.

In the above circumstances, without going into the merits of the case, the writ petition is disposed of directing the petitioner to resubmit his application for sanction of building permission to the 3rd respondent along with the entries in TSLR and thereafter respondents 3 and 4 shall

consider and dispose of the petitioner's application for sanction of building permission in accordance with law.

With the above direction, the writ petition is accordingly disposed of. No costs.

//True copy//

Assistant Registrar

16..06..2004

Section Officer

Msv

To

- 1 1 District Collector, Hyderabad District.
- 2 Mandal Revenue Officer, Bandlaguda Mandal, Hyderabad District.
- 3 The Commissioner, Municipal Corporation of Hyderabad, Hyderabad.
- 4 Assistant City Planner, Circle 1, Charminar, Hyderabad.
- 5.2CCs to Government pleader on usual terms
- 6.CD copies

*Form-NIC-OGS/WP{**RLD**}*

THE HONOURABLE SRI JUSTICE N.V.RAMANA

W.P.NO.9566 OF 2004

Dated 16-06-2004

[\[1\]](#) 2001(3) ALD 600